

VZCZCXRO8119  
PP RUEHBC RUEHDE RUEHIHL RUEHKUK  
DE RUEHGB #3689/01 2761416  
ZNY CCCCC ZZH  
P 031416Z OCT 06  
FM AMEMBASSY BAGHDAD  
TO RUEHC/SECSTATE WASHDC PRIORITY 7238  
INFO RUCNRAQ/IRAQ COLLECTIVE PRIORITY  
RHEHAAA/WHITE HOUSE WASHINGTON DC//NSC// PRIORITY  
RUEKJCS/SECDEF WASHINGTON DC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 003689

SIPDIS

SIPDIS

E.O. 12958: DECL: 10/01/2016  
TAGS: [PGOV](#) [KDEM](#) [IZ](#)  
SUBJECT: STATE MINISTER CRITICAL OF COUNCIL OF  
REPRESENTATIVES

REF: BAGHDAD 03012

Classified By: (U) Classified by Political Counselor Margaret Scobey for  
Reasons 1.4 (b) and (d)

¶1. (C) Summary: In a wide-ranging conversation with EmbOffs September 27, the Shiite Minister of State for Council of Representatives (CoR) Affairs Safa al-Safi was critical of the CoR for infringing on executive functions and often acting in ignorance of the Constitution and its own bylaws. He hopes for a legal review of the constitution; he blames the Constitution's defects on the fact that it is a product of political bargaining. Al-Safi cautions that extension of UNSCR 1546 will require close coordination between the GOI and the USG to make it suitable for the GOI. While al-Saf's views reflect his position as an executive branch advocate, the CoR still has some more settling in to do in a political culture that has traditionally been dominated by the executive branch. End summary.

-----  
Constitutional Review, UNSCR 1546  
-----

¶2. (C) The Minister highlighted his own role in the drafting of Iraq's constitution and the constitutional problems caused by politicians. Because of the constitution is the product of political compromises, it lacks legal precision. He hopes changes will be made on a legal basis: "We are witnessing a lot of problems because of political nature of constitution." As an example, he pointed to the number of independent commissions attached to the CoR, which now believes it controls everything regarding these commissions. He cited the examples of the communications commission, which requires a new organization and legal structure, but where the CoR has no expertise, and the electoral commission, where the CoR wants to be able to have input on the nomination of election commissioners despite the political conflict of interest.

¶3. (C) The Minister said the extension of UNSCR 1546, as well as the future of CPA Order 17, which gives immunity to Coalition Forces, require close coordination between the GOI and USG for these laws to be suitable for the GOI. He stated that MNF-I needs to explain itself better and express its position on these laws.

-----  
CoR Does Not Understand Separation of Powers  
-----

¶4. (C) The Minister characterized the CoR as new, inexperienced, and unqualified. As such, legislative initiatives are slow and limited. He added that misunderstandings between the executive branch and the CoR committees are slowing the process of reviewing executive

branch suggestions. According to al-Safi, there is confusion over separation of powers, and many CoR members believe the CoR has the power to interfere in executive decisions. He called for better education of CoR members on separation of powers.

15. (C) The Minister claimed that some laws suggested in the CoR violate the Constitution and the CoR's own bylaws, which require that the government be consulted before laws are introduced. Safi added that he was able to stop legislative action on two proposals (draft law to annul CPA Order 15, establishing the judicial review committee and draft law to annul Revolutionary Command Council decisions related to employment benefits). He said that abolishing CPA 15 would constitute interference in the judicial powers.

-----  
Confusion on Treaty Ratification  
-----

16. (C) The Minister also highlighted the issue of treaty ratification. He said the CoR is interpreting Article 61 (Fourth) of the constitution to require a two-thirds majority for treaty ratification. Since this majority is difficult to obtain, it could put the government in an awkward position. He also indicated that different treaties, depending on their content, might require different levels, of ratification (e.g., simple majority, 2/3 majority). He stated that, in fact, the article calls for the CoR to enact a law by a two-thirds majority to "regulate the ratification process of international treaties and agreements" rather than for the CoR to ratify each treaty. He said the Supreme Court may have to step in to resolve this issue. CoR Director of Parliamentary Affairs Haider Muthanna told PolOffs that he

BAGHDAD 00003689 002 OF 002

knows treaty ratifications do not require a 2/3 vote and that he told the Speaker and two Deputies this during the debate. He said it was clear that, for political reasons, the CoR leadership wanted a 2/3 vote to be required.

-----  
Ideas for Better Relations With the Executive  
-----

17. (C) The Minister is trying to improve relations between the Government and the CoR. The Council of Ministers will begin to issue a new weekly pamphlet announcing its legislative submissions with explanations. He claimed that the Presidency Commission (the CoR Speaker and two Deputies) had agreed that the executive branch will conduct the first reading of COM-suggested laws, will meet with the committees during the amendment process, and will answer members' questions and proposed amendments. CoR Director of Parliamentary Affairs Muthanna confirmed to PolOffs October 1 that these new procedures would be implemented, but added that, before any executive branch-proposed law has its first reading, the CoR will vote to decide if the proposal should be considered (after the Minister of State for CoR Affairs or a ministry representatives explains the rationale for the law). If the majority of CoR members vote yes, then the law will be read; if not, it will be pulled from consideration.

-----  
Review of Old Laws Needed  
-----

18. (C) The Minister told EmbOffs that previous laws need to be reviewed and possibly amended or annulled to match with the constitution (NOTE: Much of the recent legislative activity has been related to amending and annulling laws and decisions from the CPA and the previous regime. END NOTE). He highlighted the importance of cooperation and coordination between the CoR and the Council of Ministers (COM) in this effort, while acknowledging that non-governmental organizations (NGOs), specialized organizations (which he

later described as still being weak), and other experts can offer suggestions as well. He estimated that the executive branch has provided suggested changes to over 100 laws since the Transitional National Assembly (TNA).

-----  
Comment  
-----

19. (C) Safi,s opinions reflect his position as an executive branch advocate. The tension between the two branches has been evident lately, particularly when the CoR introduces legislation that has not been coordinated with the executive branch. The separation of powers will likely take years to sort out, as the legislature settles into its role in a political culture that, since independence, has normally been dominated by the executive. However, the Minister himself is not a pure adherent to the separation of powers he advocated, particularly when the interests of the Shia Coalition are at stake.

KHALILZAD